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No. 79-278

IN THE

Supreme Court of the United States

October Term 1978

LAWRENCE CONNELL, CHAIRMAN OF THE NATIONAL
CREDIT UNION ADMINISTRATIVE BOARD, ET AL.,
Petitioners

v.

AMERICAN BANKERS ASSOCIATION, ET AL.

FEDERAL HOME LOAN BANK BOARD, ET AL.,
Petitioners

v.

INDEPENDENT BANKERS ASSOCIATION OF AMERICA

BOARD OF GOVERNORS OF THE FEDERAL RESERVE
SYSTEM, ET AL.,
Petitioners

v.

UNITED STATES LEAGUE OF SAVINGS ASSOCIATIONS

MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
AND

BRIEF OF SAN DIEGO FEDERAL SAVINGS AND LOAN ASSO-
CIATION AS AMICUS CURIAE IN SUPPORT OF PETITION
OF THE FEDERAL HOME LOAN BANK BOARD FOR A WRIT
OF CERTIORARI TO THE UNITED STATES COURT OF
APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

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TO THE HONORABLE CHIEF JUSTICE AND TO THE
HONORABLE ASSOCIATE JUSTICES OF THE SUPREME
COURT OF THE UNITED STATES:

San Diego Federal Savings and Loan Association ("San
Diego Federal") hereby moves, pursuant to Rule 42 of the
Rules of the United States Supreme Court, for leave to file the
attached "BRIEF OF SAN DIEGO FEDERAL SAVINGS
AND LOAN ASSOCIATION AS AMICUS CURIAE IN SUP-
PORT OF PETITION OF THE FEDERAL HOME LOAN

BANK BOARD FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT", and as grounds therefor alleges as follows:

I

San Diego Federal Savings and Loan Association is a federally chartered savings and loan association with sixty-seven offices located in San Diego County and various other areas of California. It operates under the authority, and pursuant to regulations, of a federal agency, the Federal Home Loan Bank Board ("the Bank Board").

II

In 1974 the Bank Board promulgated a regulation, 12 C.F.R. §545.4-2, authorizing federally chartered savings and loan associations to establish "remote service units" ("the RSU regulation"). Under the definition contained in the RSU regulation, a "remote service unit" would include "an information processing device . . . by which information relating to financial services rendered to the public is stored and transmitted" to the association, which is "not [located] on the premises of any [manned] facility of a Federal association", and which is activated by a machine readable instrument and "word, number, or other security identifier essential for user access of an account".

III

Pursuant to the authority of the RSU regulation, and as part of an automatic teller service program which San Diego Federal conducts under the trade name "24-Hour Teller", San Diego Federal has established three "remote service units" in

San Diego County; and, based upon the success which these units have enjoyed and their popularity with customers, it plans to establish others. It has, in its advertising over a period of three to four years, promoted the availability of the "24-Hour Teller" program, including the remote service units, as a reason for customers to do business with San Diego Federal; and many customers have in fact come to utilize and rely upon San Diego Federal's remote service units and other automatic teller machines.

IV

In its judgment in *Independent Bankers Association of America v. Federal Home Loan Bank Board*, D.C.Cir. No. 78-1849 ("the Bank Board appeal"), one of the three decisions which is the subject of the within proceeding, the United States Court of Appeals for the District of Columbia Circuit has determined that the Bank Board exceeded its statutory authority in promulgating, and has directed the United States District Court to "vacate and set aside", the RSU regulation. Should that judgment be implemented and the RSU regulation vacated, San Diego Federal and other federally chartered associations that have established remote service units would be forced to abandon such units.

V

San Diego Federal is familiar with the questions involved in the Bank Board Appeal and with the presentation of the Bank Board in its "PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT" ("the petition for writ of certiorari") herein. In its *amicus curiae* brief in support of the petition for certiorari, San Diego Federal will

argue the following points, which are either not addressed at all or not adequately addressed in the petition for writ of certiorari:

1. Implementation of the judgment of the Court of Appeals in the Bank Board appeal nullifying the RSU regulation would a) be inimical to the interests of low income and minority depositors and other consumers who rely upon the remote service units as a medium for transacting business with their respective savings and loan associations; (b) contravene the public policy in favor of energy conservation; and (c) injure federally chartered savings and loan associations such as San Diego Federal which have established remote service units in reliance upon authority given them by the governmental agency charged by law with responsibility for regulating their operation.

2. The judgment of the Court of Appeals in the Bank Board appeal is clearly erroneous: 1) the assertion of the Court of Appeals to the contrary notwithstanding, a "passcard" or other device used to effect the withdrawal of funds through a remote service unit is manifestly not the "functional equivalent" of a check, 2) federal law explicitly provides that the Bank Board "may by regulation provide for withdrawal or transfer of savings accounts upon non-transferable order or authorization"; 3) the withdrawals and transfers which may be effected through remote service units are identical to those which may be effected at manned association facilities; 4) federal law explicitly mandates the Bank Board to encourage federal associations to establish remote service units; and 5) remote service units advance the basic purposes of federal savings and loan associations.

VI

San Diego Federal believes that its argument on the above referenced points will assist the Court in determining whether or not to grant the petition for writ of certiorari.

VII

San Diego Federal has asked all parties to the appeals which are the subject of the petition for writ of certiorari for their consent to its filing an *amicus curiae* brief; and all parties have given such consent except one, the Independent Bankers Association of America.

Wherefore, San Diego Federal requests permission to file the attached *amicus curiae* brief.

Respectfully submitted,

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I

QUESTIONS PRESENTED

The basic question presented in the appeal to which this
brief is addressed, *Independent Bankers Association of America*
v. *Federal Home Loan Bank Board*, D.C. Cir. No. 78-1849

("the Bank Board appeal"), is whether the Federal Home Loan Bank Board ("the Bank Board") exceeded its statutory authority in promulgating a regulation, 12 C.F.R. §545.4-2 ("the RSU regulation"), authorizing federal savings and loan associations to establish off-premises computer terminals which enable account holders to obtain some of the same services that the associations may lawfully render in their manned facilities and, in particular:

1. Whether the RSU regulation is within the plenary delegation to the Bank Board under §5(a) of the Home Owners' Loan Act of 1933 ("HOLA"), 12 U.S.C. §1464(a), of authority to regulate the operation of federally chartered savings and loan associations; and

2. Whether the RSU regulation violates the prohibition in §5(b)(1) of HOLA, 12 U.S.C. §1464(b)(1), that "[s]avings accounts shall not be subject to check or to withdrawal or transfer on negotiable order or transferable order or authorization", even though §5(b)(1) expressly provides that the Bank Board "may by regulation provide for withdrawal or transfer of savings accounts upon non-transferable order or authorization" and even though the withdrawals and transfers which may be effected through such off-premises computer terminals are identical to those which may be lawfully effected at manned association facilities.

II

INTEREST OF AMICUS CURIAE

San Diego Federal Savings and Loan Association ("San Diego Federal") is a federal savings and loan association

chartered by, and operating pursuant to regulations of, the Bank Board.¹

San Diego Federal conducts, and since 1975 has conducted, a program to enable customers — and *only* customers — to transact business with the association through the medium of information processing devices which constitute, in effect, automatic teller machines.

The program, which operates under the trade name "24-Hour Teller" and is similar to programs offered by other financial institutions, functions essentially as follows: 1) a customer establishes, at a manned facility of San Diego Federal, a "passcard" account, which is merely a type of a passbook account and which, like all passbook accounts at federal associations, is subject to the right of the association to require thirty days' notice as a condition precedent to withdrawal; 2) the customer is issued a "passcard"; 3) when the customer wishes to conduct a transaction with respect to the account, he or she either presents the "passcard" to a human teller at a manned facility or inserts the "passcard" in the appropriate slot in a machine teller; and 4) the human teller or the machine teller then performs the requested transaction.

There is a broad range of transactions which may be performed with respect to passbook and "passcard" accounts. The machine tellers, however, may perform only four types of transactions, *each of which is within the universe of transactions that may lawfully be performed by a human teller*: (a) the deposit of checks or cash into the account; (b) the withdrawal

¹ At present, San Diego Federal has a total of sixty-seven manned facilities, or offices, located in San Diego County and elsewhere in California. It holds savings accounts aggregating approximately one-and-one-half billion dollars and a portfolio of more than sixty thousand mortgage and home improvement loans.

of cash or travelers checks in \$20 denominations from the account; (c) the making of payments to San Diego Federal; and (d) the making of an "account status inquiry".²

The "24-Hour Teller" program, which now includes a total of 21 automatic teller machines, has been well received by consumers. In July, 1978, for example, San Diego Federal had a total of 60,799 "passcard" accounts, and a total of 34,328 transactions were performed on San Diego Federal's network of automatic teller machines. By July of 1979, however, the number of "passcard" accounts had risen to 79,034, and the number of transactions performed in San Diego Federal's network of automatic teller machines for the month had risen to 66,812.

While the "24-Hour Teller" program is utilized by people in virtually every walk of life and personal situation, there are clear indications that such utilization is particularly widespread and intensive in the case of racial minorities, non-English-speaking persons, families in which all adult members are employed during normal business hours, one-car families, families in which one spouse is handicapped, students, and low income families generally. Such indications include 1) the fact that while the average balance in all of San Diego Federal's deposit accounts as of July, 1979, was almost six thousand dollars, the average balance in the "passcard" accounts was less than \$2,000;³ the fact that a large percentage of the transactions conducted through automatic teller machines take place before

² The "account status inquiry" permits the account holder to ascertain (1) the balance in the account; (2) the interest credited to the account during the current calendar year; (3) the interest credited to the account during the preceding calendar year; and (4) the date and amount of the last transaction.

³ Indeed, while the *number* of "passcard" accounts was growing, the average *balance* in the "passcard" accounts actually declined from \$2,083 in July, 1978 to only \$1,752 in July, 1979, suggesting that the new customers attracted to the "24-Hour Teller" program are low-income savers.

or after normal business hours (when San Diego Federal's manned facilities are closed); and 3) the fact that usage of the automatic teller machine is particularly heavy in areas occupied by Blacks and Spanish-speaking persons, the machines in Spanish-speaking areas being programmed to operate bilingually in both Spanish and English.⁴

The network of 21 automatic teller machines in San Diego Federal's "24-Hour Teller" program may, for present purposes, be divided into two categories: 1) those located *on* the premises of manned facilities of the association, and 2) those located *off* the premises of manned facilities, so-called "remote service units", established pursuant to the RSU regulation of the Bank Board. The transactions which may be conducted through the medium of the two categories of machines are identical.

At present, three of the automatic teller machines in San Diego Federal's "24-Hour Teller" program are remote service units, and it plans to establish more.⁵ Its experience with such units has been extremely favorable:

⁴ San Diego Federal is presently converting all of its automatic teller machines to so operate, thereby affording Spanish-speaking customers access to their accounts over a broad geographic area.

⁵ The three presently functioning remote service units are located at the San Diego State University in the student mall, at Parkway Plaza Shopping Center in El Cajon, and at the San Diego Airport. (San Diego Federal has also located numerous manned branches in shopping centers and near university campuses.) Each remote service unit is placed in a small, free-standing kiosk, occupying approximately 144 square feet of land, constructed by, and located on ground leased by, San Diego Federal.

A remote service unit can be located on the premises of a mercantile establishment and require the participation of the merchant in order to consummate a transaction. (See "Brief for Defendant-Appellee Federal Home Loan and Board" in the United States Court of Appeals, p. 7.) None of the remote service units operated by San Diego Federal, however, are of that type: they are neither located within mercantile establishments nor do they require the participation of a merchant (or any third party) to consummate a transaction.

1. Deposits have consistently exceeded withdrawals. During July, 1979, for example, deposits in the remote service units operated by San Diego Federal were \$544,000 while withdrawals were only \$235,000. Thus, the overall deposit pool created by remote service units has been steadily growing.⁶

2. While a human teller is capable of handling approximately 1,300 transactions per month, each remote service unit is capable of handling approximately 6,500. Actually San Diego Federal's remote service units have consistently averaged well over 2,000, and, in most instances, well over 2,500, transactions per month. Indeed, each remote service unit handles more transactions than many of the manned offices of the association which occupy 1,000 to 1,500 square feet of floor space and require four employees to operate.⁷

3. The majority of transactions conducted through remote service units occur before or after normal business hours, suggesting that they produce business which San Diego Federal would not otherwise get at all, or would get only by maintaining extended business hours at manned facilities, thereby incurring the additional expense, and consuming the additional energy (for heat, light and air conditioning), required to maintain such extended hours.

4. Remote service units are used by a substantial number of account holders as their primary or exclusive means of transacting business with San Diego Federal.

⁶ By contrast, deposits in conventional "passbook" accounts during the comparable period have been volatile and are now rapidly declining.

⁷ The daily energy consumption of a remote service unit is only a small fraction of that of even the smallest manned office.

III ARGUMENT

A. Implementation Of The Judgment Of The Court Of Appeals In The Bank Board Appeal Nullifying The RSU Regulation Would 1) Be Inimical To The Interests Of Low Income and Minority Depositors and Other Consumers Who Rely Upon The Remote Service Units As A Medium For Transacting Business With Their Respective Savings And Loan Associations; 2) Contravene The Public Policy In Favor Of Energy Conservation; and 3) Injure Federally Chartered Savings And Loan Associations Such As San Diego Federal Which Have, At Considerable Cost, Established Remote Service Units In Reliance Upon Authority Given Them By The Governmental Agency Charged By Law With Responsibility For Regulating Their Operations.

In determining whether or not to grant the petition for certiorari, the Court should be apprised of the practical impact of denying such petition and allowing the judgment of the United States Court of Appeals for the District of Columbia Circuit in the Bank Board appeal to be implemented. As San Diego Federal shall hereinafter demonstrate, implementation of that judgment would 1) be inimical to the interests of low income and minority depositors and other consumers who rely upon remote service units as a medium for transacting business with their respective savings and loan associations; 2) contravene the public policy in favor of energy conservation; and 3) injure federally chartered savings and loan associations such as San Diego Federal who have, at considerable cost, established remote service units in reliance upon authority given them by the governmental agency charged by law with responsibility for regulating their operations.

1. Effect Upon Consumers.

While San Diego Federal and other federally chartered savings and loan associations would be injured by the

implementation of the judgment in the Bank Board appeal (see §III A.3., *infra*), the ones who would really suffer are the consumers.

As set forth in §II, *supra*, the experience of San Diego Federal with its "24-Hour Teller" program suggests that the primary users of automatic teller machines, including remote service units, are racial minorities, non-English-speaking persons, families in which all adult members are employed during normal business hours, one-car families, families in which one spouse is handicapped, students, and low income families generally. The result of abolishing remote service units would be to deprive these people of a useful medium for transacting business with respect to their savings accounts — perhaps, because of lack of transportation, language barriers, and other factors, the only practical medium available to them.

2. *Contravention of Policy of Energy Conservation.*

Conservation of energy is, of course, a preeminent national policy; and abolition of remote service units would clearly contravene that policy.

Remote service units are highly energy efficient. The number of transactions which are currently effected through several of San Diego Federal's remote service units actually exceed the number of transactions effected through some manned facilities which require four employees to operate; yet a remote service unit consumes only a fraction of the energy consumed by such a manned facility.

Furthermore, remote service units are often located more proximately to account holders than manned facilities, can be located in shopping centers and other places frequented by account holders for other purposes, and are accessible on a

twenty-four hour basis. Hence they permit account holders to avoid unnecessary travel, with all of the saving of energy that such avoidance entails.⁸

3. *Injury To Federal Associations.*

The injury to federally chartered savings and loan associations such as San Diego Federal would be multifaceted and substantial.

First, as of the present time federally chartered savings and loan associations have secured permission from the Bank Board to establish a large number of remote service units, and total investment of federal associations in such units is enormous. (See "Petition for Rehearing and Suggestion that Rehearing Be En Banc" in the United States Court of Appeals, p. 14.) Yet that investment would be largely lost if the judgment of the Court of Appeals in the Bank Board appeal was implemented.⁹

Second, the total pool of funds held by federal associations in accounts accessible through remote service units is now in excess of two and one half billion dollars (*Ibid*)—a pool of funds which, the experience of San Diego Federal suggests, is more stable than the general pool of deposits in passbook

⁸ While San Diego Federal and other federally chartered associations do endeavor to locate their manned facilities near account holders, there are obviously practical limitations such as space, personnel requirements, and cost upon the number of manned facilities which may be established.

⁹ While certain components of the remote service installations could perhaps be salvaged, the major portion — particularly the kiosks housing the computer terminals — would probably have to be either abandoned or demolished.

Actually, San Diego Federal's own investment includes, properly speaking, not only the cost of the physical assets but also the time, money, and effort expended in planning and promoting its remote service units.

accounts, which has been growing while the general pool of deposits in passbook accounts has been declining, and which is available at a relatively favorable cost.¹⁰ Yet if the judgment in the Bank Board appeal was implemented, a significant portion of that pool might well be lost to federal associations.

Third, the relationship between federal associations, college students, young single people, and others who in the future may be expected to be substantial savers and an important source of business over the long term may be substantially eroded.

¹⁰ At present passbook accounts at San Diego Federal, including "passcard" accounts, bear interest at the rate of 5-1/2% per annum.

B. The Judgment Of The Court Of Appeals In The Bank Board Appeal Is Clearly Erroneous: 1) The Assertion Of The Court Of Appeals To The Contrary Notwithstanding, A "Passcard" Or Other Device Used To Effect The Withdrawal Of Funds Through A Remote Service Unit Is Manifestly Not The "Functional Equivalent" Of A Check; 2) Federal Law Explicitly Provides That The Bank Board "May By Regulation Provide For Withdrawal Or Transfer Of Savings Accounts Upon Non-Transferable Order Or Authorization"; 3) The Withdrawals And Transfers Which May Be Effected Through Remote Service Units Are Identical To Those Which May Be Effected At Manned Association Facilities; 4) Federal Law Explicitly Mandates The Bank Board To Encourage Federal Associations To Establish Remote Service Units; and 5) Remote Service Units Advance The Basic Purposes Of Savings and Loan Associations.

Another factor which this Court should consider in deciding whether or not to grant the petition for writ of certiorari is the correctness of the judgment of the Court of Appeals in the Bank Board appeal. As San Diego Federal shall hereinafter demonstrate, that judgment is clearly erroneous.¹¹

1. *The "Passcard" or Other Device Used to Effect the Withdrawal of Funds Through a Remote Service Unit is Manifestly Not the "Functional Equivalent" of a Check.*

The sole basis upon which the Court of Appeals reversed the judgment of the District Court and ordered the Bank Board to vacate the RSU regulation is its conclusion, supported by

¹¹ San Diego Federal does not propose to present herein a comprehensive exposition of all of the reasons which demonstrate that the judgment of the Court of Appeals is legally unsupportable. Should certiorari be granted, however, San Diego Federal may seek leave to file a brief which addresses the merits of the appeal in greater detail.

neither authority nor analysis, that the device (in the case of San Diego Federal, a "passcard") used to effect withdrawals through a remote service unit is the "functional equivalent" of a check and that, therefore, the RSU regulation violates the prohibition against federally chartered savings and loan associations offering checking accounts contained in §5(b)(1) of the Home Owners' Loan Act of 1933, 12 U.S.C. §1464(b)(1).

The conclusion is patently untenable.¹²

Fundamentally, a check is a device by which an individual may create a right in a third party payee to withdraw funds from a demand deposit account and which confers upon such third party payee the option of transferring that right to other third parties. A "passcard" such as that employed by San Diego Federal, by contrast, is functionally nothing more than a device which permits the account holder to identify himself to his or her association in order that he or she may personally withdraw funds from his or her non-demand savings account. No rights whatsoever are conferred upon third parties.

¹² One possible explanation for the Court's commission of so obvious an error is the consolidation of the Bank Board appeal with two other appeals which involved totally different agencies, issues, and statutory schemes. San Diego Federal expresses no opinion either as to the merits of, or as to whether certiorari should be granted in, the other two appeals. It should be noted, however, that they involved, respectively, the questions of 1) whether the creation of a new type of commercial paper by federally chartered credit unions violates the Federal Credit Union Act, 12 U.S.C. §§1751-90, and 2) whether the automatic transfer of funds from an interest-bearing savings account to a non-interest-bearing demand (checking) account by a national banking association in order to maintain the demand account at a minimum level or to cover overdrafts violates the prohibition against the payment of interest on checking accounts contained in 12 U.S.C. §371a — questions which have no meaningful legal relationship to the question presented in the Bank Board appeal.

In short, characterizing a check and a device such as a "passcard" as functional equivalents is simply unsupportable.¹³

2. Federal Law Explicitly Provides For Withdrawal Upon Non-Transferable Order.

While §5(b)(1) of the Home Owners' Loan Act of 1933, 12 U.S.C. §1464(b)(1), states that "[s]avings accounts shall not be subject to check or to withdrawal or transfer on negotiable order or transferable order of authorization", it also explicitly states that the Bank Board "may by regulation provide for withdrawal or transfer of savings accounts upon non-transferable order or authorization". The RSU regulation is a regulation of the Bank Board which *does* provide for withdrawal of savings accounts upon a non-transferable order of authorization.¹⁴

¹³ Moreover, the Court of Appeals failed to cite, and San Diego Federal is not aware of, any authority to support the assertion that a "functional equivalency" criterion may be applied to determine whether or not 12 U.S.C. §1464(b)(1) is in fact violated. Indeed, it is generally known that some consumers prefer to make frequent withdrawals from a savings account and then pay debts in cash instead of using a checking account; but that has never meant, nor could it conceivably mean, that such withdrawals are the "functional equivalent" of a check in violation of 12 U.S.C. §1464(b)(1).

¹⁴ The Independent Bankers Association argued, in essence, to the Court of Appeals that, because electronic withdrawals from bank savings accounts are "check paid" under the National Bank Act (citing *Independent Bankers Ass'n of America v. Smith*, 175 U.S. App.D.C. 184, 534 F.2d 921 (D.C. Cir. 1976) *cert. denied*, 429 U.S. 862), electronic withdrawals from savings and loan association accounts are also "checks paid" under the Home Owners' Loan Act of 1933. In fact, however, the Court in *Smith* held that "all account withdrawals" from *all* accounts at national banking associations, *including savings accounts*, were "checks paid" (534 F.2d 944; emphasis added.) If the rationale of the *Smith* case was applicable to federally chartered savings and loan associations, therefore, it would mean that *all* withdrawals from accounts at federal savings and loan associations, *whether or not through remote service units*, would be unlawful — an obviously absurd conclusion.

3. *Withdrawals That May be Effected Through Remote Service Units are Identical to Those Which May be Effected at Manned Association Facilities.*

As set forth in §II, *supra*, the transactions that may be effected through remote service units under programs such as San Diego Federal's "24-Hour Teller" program are all within the universe of transactions that may be, and historically have been, performed at manned savings and loan association facilities. All that the remote service unit does is to provide a new communications medium by which the transaction may be effected.¹⁵

Indeed, implementation of the judgment of the Court of Appeals would create the anomaly in which an automatic teller — by definition a device that functions without human assistance — located *on* the premises of a manned facility could and would lawfully function, whereas a remote service unit which operated in exactly the same manner and during exactly the same hours and which performed identical functions would be unlawful merely because it was located other than in conjunction with a manned facility of the association.¹⁶

¹⁵ Indeed, savings and loan associations have traditionally permitted account holders to effect transactions through the mails or by a combination of the mails and telephonic communications. Would a Court of Appeals conclude that a mailed communication or a telephonic communication was also the "functional equivalent" of a check?

¹⁶ In *Independent Bankers Ass'n of America v. Smith, supra*, the Independent Bankers Association of America contended that substance should govern over form and that, therefore, the identical legal consequences should attach to electronic and manual withdrawals from accounts. In the instant case, however, the Independent Bankers Association of America has reversed its position and is arguing, in effect, that form should govern over substance and that different legal consequences should attach to a transaction depending upon whether it is performed through a remote service unit or on the premises of manned facilities.

4. *Congress has Mandated the Bank Board to Allow For the Development of Electronic Transfer Systems Such As Remote Service Units.*

In 1978, Congress enacted, passed as Title XX to the Financial Institutions Regulatory and Interest Rate Control Act of 1978, the Electronic Fund Transfers Act, 15 U.S.C. § 1693. It mandates the Board of Governors of the Federal Reserve System, in consultation with the Bank Board, to "take into account, *and allow for*, the continuing evolution of electronic banking services and the technology utilized in such services" and to carefully analyze "the availability of such services to different classes of consumers, particularly low income consumers." (15 U.S.C. §1693(a)(1) and (2); emphasis added.) The RSU regulation carries out that mandate, making available to low income consumers and other classes of individuals convenient and efficient savings and loan facilities which might otherwise be denied to them.

5. *Remote Service Units Advance the Basic Purposes of Federal Savings and Loan Associations.*

The purpose of federal savings and loan associations was declared by Congress to be the provision of "*local mutual thrift institutions in which people may invest their funds in order to provide for financing of homes. . . .*" (12 U.S.C. §1464(a); emphasis added). As more localized facilities are provided through the relative ease of placement of a small, highly efficient electronic machines, savings and thrift are encouraged among all classes of consumers; and the stable deposit pool of money available for home financing is thereby increased.

IV

CONCLUSION

The petition for writ of certiorari should be granted.

Respectfully submitted,

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